(original)

Stacey Reese #D14515
(Name)
A.S.P "P.O. Box 9
(Address)
Avenal, Ca. 93204
(City, State, Zip)
D14515
(CDC Inmate No.)

2254 ____ 1983 ✓
FILING FEE PAID
Yes ____ No ✓
IFP MOTION FILED
Yes ____ No ✓
COPIES SENT TO
Court ✓ ProSe ____

FILED
FEB 21 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY ____ DEPUTY

United States District Court
Southern District of California

Stacey Reese,
(Enter full name of plaintiff in this action.)

Plaintiff,

v.

Defendant c/o LAZOYA,
Defendant c/o Desousadias,
Defendant c/o Sg. Autrey,
____,
(Enter full name of each defendant in this action.)

Defendant(s).

'08 CV 0346 BTM PCL
Civil Case No. ____
(To be supplied by Court Clerk)

Complaint Under the
Civil Rights Act
42 U.S.C. § 1983

A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.

____.

B. Parties

1. Plaintiff: This complaint alleges that the civil rights of Plaintiff, Stacey Reese (print Plaintiff's name), who presently resides at Avenal State prison (mailing address or place of confinement) Eighth Amendment Rights, were violated by the actions of the below named individuals. The actions were directed against Plaintiff at (C.V.S.P) Chuckawalla Valley State prison (institution/place where violation occurred) on (dates) 3/01/2006 (Count 1), ____ (Count 2), and ____ (Count 3).

CR

2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant C/O LAZOYA resides in UNKNOWN,
(name) (County of residence)
and is employed as a California Correctional officer. This defendant is sued in
(defendant's position/title (if any))
his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: The apperence of semblance with out the substance of a legal right. the term used implies a misuse of power made possible because the wrong doer is clothed with the Authority of the State.

Defendant C/O DESOUSADIAS resides in UNKNOWN,
(name) (County of residence)
and is employed as a California correctional officer. This defendant is sued in
(defendant's position/title (if any))
his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: The apperence of semblance with out the substance of a legal right. the term used implies a misuse of power made possible because the wrongdoer is clothed with the Authority of the State.

Defendant Sergeant Autrey resides in UNKNOWN,
(name) (County of residence)
and is employed as a California Correctional Sergeant. This defendant is sued in
(defendant's position/title (if any))
his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: The apperence of semblance with out the substance of a legal right. the term used implies a misuse of power made possible because the wrong doer is clothed with the Authority of the State.

Defendant ______________________ resides in ______________________,
(name) (County of residence)
and is employed as a ______________________. This defendant is sued in
(defendant's position/title (if any))
his/her ☐ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: ______________________

C. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

Count 1: The following civil right has been violated: Eighth Amendment Rights, cruel and unusual punishment (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 1.]

See attached pages of facts begin 3-10

on march 01, 2006 at approximately 0800 hours during the lower teir shower in the administration segregation unit. Defendant c/o Lazoya asked plaintiff if I wished to shower? I said yes. I was then handcuffed from behind and removed from my cell. Defendant c/o Lazoya escorted plaintiff to B-side upper stairs (steps 15) correctional officer Lazoya order plaintiff to proceed up steps where another officer was standing near by. I plaintiff was un-escorted and still left in hand cuffs. I plaintiff struggled walking up the stairs, no one holding me, no one behind me, or infront. plaintiff left shower slipper became un-secured causing plaintiff to mis-judge my steps. I became off balance causing plaintiff to fall face forward. my teeth was crack, Abrasions to my upper arm and chest, bruise's to my entire left side body and hip, my shoulder and neck was in severe pain, severe back spasms. these actions was caused by Defendant c/o Lazoya not following her duties and responsibility by securing plaintiff health and safety which caused plaintiff to be inflicted with pain and injuries. Defendant violated plaintiff Eighth Amendment Rights.

Count 2: The following civil right has been violated: ______________________________
(E.g., right to medical care, access to courts,

due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 2.]

N/A

Count 3: The following civil right has been violated: ______________________

(E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 3. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 3.]

NA

D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? ☐ Yes ☑ No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:
Plaintiffs: ______________________

Defendants: ______________________

(b) Name of the court and docket number: ______________________

____

(c) Disposition: [For example, was the case dismissed, appealed, or still pending?] ______________________

____

(d) Issues raised: ______________________

____

____

____

____

(e) Approximate date case was filed: ______________________

(f) Approximate date of disposition: ______________________

2. Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDC Inmate/Parolee Appeal Form 602, etc.] ? ☑ Yes ☐ No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not sought.

Appeals #NO. C.V.S.P) X-06-00313 my (1) First and (2) Second level of review on my 602 was partially Granted. my (3) third Level of review was denied.

I also filed a Government Board of control claim. which it was denied.

E. Request for Relief

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s): ______________________________

2. Damages in the sum of $ 500,000.00
3. Punitive damages in the sum of $ 240,000.00.
4. Other: Grant other relief as it appear to the court that plaintiff is also entitled.

F. Demand for Jury Trial

Plaintiff demands a trial by ☒ Jury ☐ Court. (Choose one.)

G. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:

☒ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☐ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

2/18/2008
Date

[signature]
Signature of Plaintiff

Preliminary Statement

This is a complaint for punitive damage, deliberate indifference cruel and unusual punishment brought under 42 U.S.C 1983, in connection with the unnecessary wanton on inflection of pain and suffering on plaintiff Stacey Reese, a prisoner housed at Chuckawalla Valley State prison (C.V.S.P) at the time of my incident by Defendants correctional officer C/O Lazoya, correctional officer C/O Desousadias, correctional Sergeant Autrey. The unnecessary wanton inflection of pain and suffering is a violation of plaintiffs constitutional rights under the Eighth Amendment prohibition against cruel and unusual punishment deliberate indifference.

Jurisdiction and Venue

(1) This case is brought pursuant to 42 U.S.C section 1983 because plaintiff constitutional Rights were violated by individuals acting under the color of State Law.

(2) Jurisdiction is based upon 28 U.S.C section 1331 and 1343. The court Also has supplemental Jurisdiction over the state claims. The district courts shall have original Jurisdiction of all civil actions arising under the constitution law, or treaties of the united states.

PARTIES

(3) plaintiff STACEY Reese, is a prisoner of the state of california in the custody of the california department of corrections and Rehabilitations. confined to chuckawalla valley state prison (c.v.s.p) at the time of my incident.

(4) Defendant c/o LAZOYA, is A correctional officer for the california department of corrections and Rehabilitations, holding the position as A segregation security officer, assigned to a segregation unit at the chuckawalla valley state prison. Defendant is being sued in her individual capacity.

⑤ Defendant C/O Desousadias, is a correctional officer for the california department of corrections and Rehabilitations, holding the position as a segregation security officer. assigned to a segregation unit at the chuckawalla Valley State prison. Defendant is being sued in his individual capacity.

⑥ Defendant sergeant correctional officer Autrey. for the california dept. of corrections and Rehabilitations, holding a higher rank than a correctional officer. position as a supervisor sergeant assigned to a segregation unit at the chuckawalla valley state prison Defendant is being sued in his individual capacity.

STATEMENT OF FACTS

⑦ on march 01, 2006 at approximately 0800 hours during the lower teir shower in the Administration segregation unit (A.S.U) correctional officer LAZOYA asked plaintiff if I wished to shower? I said (yes.) I was then handcuffed from behind and removed from my cell. Defendant

Correctional officer LAZOYA escorted plaintiff to B-side upper steps. correctional officer lazoya order plaintiff to proceed up the steps towhere another officer was standing near by. I plaintiff was un-escorted and still left in hand cuffs. plaintiff struggled walking up the stairs, no one holding plaintiff, no one behind plaintiff or infront. my left shower slipper became unsecured causing plaintiff to mis-judge my steps. I became off balance causing plaintiff to fall face forward. my teeth was crack. with abrasions to my upper arm and chest, bruises to my entire left side body and hip. shoulder and neck was in severe pain. severe spasms to back. by these Actions correctional officer LAZOYA violated plaintiff's Eighth Amendment Rights.

(8) on march 01, 2006 at approximately 0800 hours in the administration segregation unit (A.S.U) during lower teir shower Defendant c/o Desousadias was up stairs in B-section conducting showers. while Awaiting Defendant c/o Desousadias allowed his partner

Defendant C/O Lazoya to send plaintiff up the stairs handcuffed from behind with out being escorted or securing my support up. Defendant C/O Desousadias allowed plaintiff to fall and hurt myself when Defendant allowed plaintiff to walk up with No help in cuffs. by these Actions Defendant C/O Desousadias Violated plaintiff Eighth Amendment Rights.

(9) on march 01, 2006 during morning lower teir showers Defendant Sergeant Autrey who was supervising these same Defendants C/O Lazoya, C/O Desousadias. failed as the ranking officer to properly supervise or instruct Defendant C/O Lazoya and Defendant C/O Desousadias how to properly escort plaintiffs to the shower. by Neglecting his responsibility Defendant has allowed plaintiff to fall and hurt myself. By these Actions Defendant Sergeant Autrey Violated my Eighth Amendment Rights.

CLAIMS FOR RELIEF

(10) The actions of Defendant Correctional officer Lazoya, asked plaintiff if I wished to shower. I said (yes) I was then handcuffed

from behind and removed from my cell correctional Officer LAZOYA failed to prevent plaintiff from falling. Defendant c/o LAZOYA order plaintiff to proceed up 15 steps un-escorted and still in handcuffs.

(11) The actions of Defendant c/o LAZOYA. when plaintiff struggled walking up the stairs, no one holding me, no one behind me or infront.

(12) The actions of Defendant c/o LAZOYA, when plaintiff left shower slipper be-came unsecured causing plaintiff to mis-judge his steps. I became off balance causing plaintiff to fall face forward, my ~~teeth~~ teeth was crack, with abrasions to my entire left side body and hip. Shoulder and Neck was in severe pain. spasms to my back. This were done maliciously and under color of State law in her individual capacity under the Eighth Amendment Guarantee against cruel and unusual punishments inflected of pain and suffering.

(13) The action of Defendant c/o Desousadias, when he allowed his partner Defendant c/o Lazoya to send plaintiff up the stairs hand cuffed from behind on my own without being escorted or secured my support up the stairs.

(14) The action of Defendant c/o Desousadias, when he allowed plaintiff to walk hand cuffed from behind up. 15 steps. were done maliciously when plaintiff was not given any help while walking up stairs. under color of state law in his individual capacity. under the Eighth Amendment Guarantee against cruel and unusual punishments inflicted of pain and suffering.

(15) The action of Defendant Sergeant (Stg.) Autrey who was supervising these same Defendants. C/O Lazoya, and C/O Desousadias failed as the ranking officer to properly supervise or instruct Defendants c/o Lazoya and Defendant C/O Desousadias how to properly escort plaintiff to shower when being in mechanical restraints.

(16) The action of Defendant sergeant (Stg.) Autrey, when he allowed plaintiff to fall and hurt myself, were done maliciously and under color of State law in his individual capacity. under the Eighth Amendment Guarantee against cruel and unusual punishments in-flicted of pain and suffering of the united States constitution.

Relief Requested

(17) wherefore plaintiff request that the court Grant the following relief:

(18) The cruel and unusual punishment inflicted on plaintiff by Defendant correctional officer LAZOYA, violated the plaintiffs rights under the Eighth Amendment when Guarantee against cruel and unusual punishment inflicted of pain and suffering by the unit States constitution.

(19) The cruel and unusual punishment inflicted on plaintiff by Defendant correctional officer Desousadias violated the plaintiffs rights

under the Eighth Amendment when Guarantee against cruel and unusual punishment inflicted of pain and suffering by the unit States constitution.

(20) The cruel and unusual punishment inflicted on plaintiff by Defendant Sergeant (Stg.) Autrey violated plaintiff's rights under the Eighth Amendment when Guarantee against cruel and unusual punishment in-inflicted of pain and suffering by the unit States constitution.

Award Compensatory Damages In the following amounts:

(21) $500,000.00 against Defendant correctional officer Lazoya for the physical, and emotional injuries plaintiff sustained as a result of plaintiff being subjected to cruel and unusual punishment by pain and suffering.

(22) $500,000.00 against Defendant correctional officer Desousadias, for the physical and emotional injuries plaintiff sustained

as a result of plaintiff being subjected to cruel and unusual punishment by pain and suffering.

(23) $500,000.00 against Defendant Sergeant Autrey for the physical and emotional injuries plaintiff sustained as a result of plaintiff being subjected to cruel and unusual punishment by pain and suffering.

Award punitive Damages in the following amounts.

(24) $240,000.00 against Defendant C/O Lazoya.

(25) $240,000.00 against Defendant C/O Desousadias.

(26) $250,000.00 against Defendant Sergeant Autrey.

(27) Grant such other relief as it may appear to the court that plaintiff is also entitled.

Date: 2/18/2008

respectfully submitted

Stacey Reese

plaintiff addr:
Stacey Reese #D14515
A.S.P " 640
P. O. Box 9
Avenal, Calif. 93204

10-10

JS44
(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

2254 ___ 1983 ___
FILING FEE PAID
Yes ___ No ✓
IFP MOTION FILED
Yes ___ No ✓
COPIES SENT TO
Court ✓ Pro Se ___

FILED
FEB 21 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY KM DEPUTY

I (a) PLAINTIFFS

Stacey Reese

DEFENDANTS

Lazoya, et al

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Kings
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Stacey Reese
PO Box 9
Avenal, CA 93204
D-14515

ATTORNEYS (IF KNOWN)

'08 CV 0346 BTM PCL

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX (For Diversity Cases Only) FOR PLAINTIFF AND ONE BOX FOR DEFENDANT

	PT	DEF		PT	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business in This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. 1983

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT
- ☐ 110 Insurance
- ☐ Marine
- ☐ Miller Act
- ☐ Negotiable Instrument
- ☐ 150 Recovery of Overpayment &Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153Recovery of Overpayment of Veterans Benefits
- ☐ 160 Stockholders Suits
- ☐ Other Contract
- ☐ 195 Contract Product Liability

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectmant
- ☐ 240 Tort to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury- Medical Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/Accommodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence Habeas Corpus
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☒ 550 Civil Rights

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC881
- ☐ 630 Liquor Laws
- ☐ 640 RR & Truck
- ☐ 650 Airline Regs
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (13958)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reappointment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities Exchange
- ☐ 875 Customer Challenge 12 USC
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State
- ☐ 890 Other Statutory Actions

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appelate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 **DEMAND $** Check YES only if demanded in complaint: JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE 2/21/2008 ~~SIGNATURE OF ATTORNEY OF RECORD~~ R. Miller

CR